

ing the Minority Report, "Freedom of Information", and I would like to quote from James Madison to begin that report:

"Knowledge will forever govern ignorance. And a people who mean to be their own governors, must arm themselves with the power knowledge gives. A popular government without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy, or perhaps both."

The Committee on Personal Rights had hearings on the problem of the secrecy of governmental proceedings. This body has on several occasions addressed itself to similar proceedings, consideration by the legislature of appointments, meetings of the Board of Public Works, and has affirmatively stated that secrecy in government shall not be a practice.

I will not detail the many reasons why this provision is proposed because I am sure that you are aware of many of the problems of state and local government, and I will allow those people who will speak to the issue to discuss it more fully. I will discuss the proposal itself.

It is clear that the public has no common law right to attend meetings of government bodies, whereas there is a common law right that published records be open. In the seventeenth and eighteenth centuries in England, publication of parliamentary debates was frequently visited with harsh punishment.

The motive for secrecy originally lay in protection from the Crown. Beginning in the late eighteenth century, publication of debates was tolerated, but reporters had no privilege to attend and could be excluded upon the request of a single member.

Since 1874 a majority vote has been required to exclude the public, and Parliament has increasingly encouraged dissemination of information about its proceedings in an effort to exert greater influence on the people and to enlarge their role in the process of enacting or rejecting legislation. In the United States, the House of Representatives has customarily met in public since its inception, and the Senate since 1794. Most congressional work is now done in committee, however, and approximately one-third of the committee meetings have been closed.

Thirty-four of the states have constitutional requirements that the legislature meet in public; in the others legislative sessions are open as a matter of custom.

Apparently no state, however, has a constitutional requirement of open meetings applicable to any governmental body other than the legislature.

I might point out that in some decisions it has been argued that the First Amendment freedoms of the press and of speech include a right to freedom of information. I would read you just a short statement from a judge in a dissenting opinion in interpreting this language. Judge Musmanno in Pennsylvania stated: "A print shop without material to print would be as meaningless as a vineyard without grapes, an orchard without fruit, or a lawn without color. Freedom of the press means to gather news, write it, publish and circulate it."

Provide for open meetings. It also provides that it will be limited, that these open meetings will have a requirement of notice.

As part of the Minority Report, we have given a statute or have provided a statute that would handle those areas where there is a right to privacy. The force of this amendment is to change the burden of proof from the citizen claiming that he has a right to information or a right to attend a public meeting, to the State to show that he does not have that right, and that is all it does. It is essentially the same approach taken by the federal government in the recent Public Information Act.

The enforcement of this provision or the justiciability of this provision would be by way of injunction or mandamus only.

At the present time in our law there is a right to a writ of mandamus to obtain public records because this is not a discretionary act. The old governmental language includes the legislative, judicial, and executive branches, local government branches, agencies, and governmental instrumentalities. It is to be read as broadly as possible. It includes governmental bodies, subordinate agencies, and committees whose only function it is to make recommendations to the parent organization. "Proceeding" is really a term of art which refers to the court, and it only refers to the formal proceedings, that is, the proceedings in court; it does not go to the deliberative process of the court. Essentially it is almost a term of limitation. But the intent is to provide this area of public information and to broaden it. Because there is some concern about deliberations of the court, this word "proceedings" refers to the formal aspects of it, not to the deliberative process.